

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RUBIROSA PIZZA & RISTORANTE LLC
and RUBIROSA AT HOME, LLC,

Plaintiffs,

v.

RUBIROSA CUCINA & BAR INC.,

Defendant.

Civil Action No. 1:23-cv-02309

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9/5/2023

~~Proposed~~ DEFAULT JUDGMENT AGAINST DEFENDANT

WHEREAS, on March 17, 2023, Plaintiffs Rubirosa Pizza & Ristorante LLC (“RCR”) and Rubirosa At Home, LLC (“RAH” and, together with RCR, “Plaintiffs”) filed a Complaint against Defendant Rubirosa Cucina & Bar Inc. (“Defendant”), alleging claims of trademark infringement, false designation of origin and unfair competition under the federal Lanham Act, 15 U.S.C. § 1051 *et seq.*, and trademark infringement, unfair competition and dilution under New York State law, based on Defendant’s violation of Plaintiffs’ exclusive rights in the marks RUBIROSA and RUBIROSA RISTORANTE, alone or with other words, letters and/or design elements (collectively, “Plaintiffs’ RUBIROSA Marks”) (ECF No. 1);

WHEREAS, the Summons and Complaint in this action were duly served on Defendant on March 21, 2023 (ECF No. 12);

WHEREAS, the deadline for Defendant to answer or otherwise move with respect to the Complaint was April 14, 2023;

WHEREAS, Defendant failed to appear, answer, plead or move with respect to the Complaint within the statutory time period;

WHEREAS, on April 20, 2023, the Clerk of the Court entered a default as to Defendant;

WHEREAS, Plaintiffs have moved for entry of a default judgment against Defendant;

and

WHEREAS, the Court has determined that Plaintiffs are entitled to a default judgment.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The Court has jurisdiction over Defendant and over the subject matter at issue, and venue is proper in this District.
2. Judgment is entered in favor of Plaintiffs and against Defendant on: Count I of the Complaint for Federal Trademark Infringement Under 15 U.S.C. § 1114(1); Count II of the Complaint for Federal Unfair Competition Under 15 U.S.C. § 1125(a); Count III of the Complaint for New York Common Law Unfair Competition; and Count IV of the Complaint for New York State Dilution Under N.Y. Gen. Bus. Law § 360-l.
3. Defendant and any of its officers, directors, agents, shareholders, members, employees, representatives, parents, subsidiaries, affiliates, divisions, successors and assigns, and all those persons in active concert or participation with any of them who receive actual notice of this judgment, shall be permanently enjoined from:
 - (a) Using any marks, stylizations, fonts or designs confusingly similar to Plaintiffs' RUBIROSA Marks, including without limitation the mark RUBIROSA, both alone and with other words, letters and/or design elements (collectively, the "Infringing Marks"), and/or any other marks, names, designs or designations that comprise or contain

the term RUBIROSA or are otherwise confusingly similar to Plaintiffs' RUBIROSA Marks

(b) Committing any other act that falsely represents or suggests, or which has the effect of falsely representing or suggesting that the Infringing Marks and/or Defendant's services or products are associated with, authorized, endorsed or sponsored by Plaintiffs or any of their affiliated entities;

(c) Committing any other act that is likely to dilute the distinctive quality of Plaintiffs' RUBIROSA Marks; and/or

(d) Otherwise competing unfairly with Plaintiffs or retaining the benefits of any past unfair competition.

4. Plaintiffs shall recover an attorneys' fees award of \$18,466.00.

5. Plaintiffs shall recover their litigation costs in an amount \$402.00.

6. The Court shall retain continuing jurisdiction over the parties to this Judgment and over the subject matter of the action for the purposes of interpreting and enforcing the terms of this Judgment.

IT IS SO ORDERED this 31 day of August, 2023



HON. COLLEEN MCMAHON, U.S.D.J.